

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America, Plaintiff, v. Aundray Lindsay, Defendant.	Case No. 0:14-cr-289(5) (SRN/BRT) ORDER DENYING PLAINTIFF'S MOTION FOR COMPASSIONATE RELEASE/REDUCTION IN SENTENCE UNDER 18 U.S.C. § 3582
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Allen A. Slaughter, Jr., United States Attorney's Office, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for Plaintiff.

Aundray Lindsey, Jr., 18182-041, FPC–Duluth, P.O. Box 1000, Duluth, Minnesota 55814, pro se.

SUSAN RICHARD NELSON, United States District Judge

Defendant, Aundray Lindsay, moves for compassionate release and for a reduction in sentence under 18 U.S.C. § 3582 [Doc. No. 597]. In response, the Government moves to dismiss Lindsay's motion for lack of jurisdiction [Doc. No. 604]. For the reasons set forth below, this Court denies Lindsay's motion and grants the Government's motion to dismiss.

A federal court may only grant a compassionate relief modification to a previously imposed sentence if all of the elements of 18 U.S.C. § 3582(c)(1)(A)(i) are met. *United States v. Biwer*, No. 05-CR-319(JMR), 2008 WL 170006, at *1 (D. Minn. Jan. 16, 2008). According to 18 U.S.C. § 3582(c)(1)(A)(i), a court may only modify a sentence if the Director of the Bureau of Prisons has made a motion requesting the court to do so. *United*

States v. Ayala, 351 F. App'x 147, 149 (8th Cir. 2009). Here, the Director of the Bureau of Prisons has not made such a request on behalf of Lindsay. Further, a court may not review the Bureau of Prisons' decision not to file such a motion. *Gutierrez v. Anderson*, No. CIV.06-1714(JRT/JSM), 2006 WL 3086892, at *4 (D. Minn. Oct. 30, 2006).

Accordingly, **IT IS HEREBY ORDERED** that:

1. Defendant Lindsay's Motion for Compassionate Release/Reduction in Sentence Under 18 U.S.C. § 3582 [Doc. No. 597] is **DENIED**;
2. Plaintiff Government's Motion to Dismiss Defendant's Motion [Doc. No. 604] is **GRANTED**.

Dated: October 30, 2018

s/ Susan Richard Nelson

SUSAN RICHARD NELSON
United States District Judge